

Bureau of Industry and Security, Commerce

§ 742.1

Office Supplies and Equipment

SUPPLEMENT NO. 3 TO PART 740—COUNTRIES ELIGIBLE FOR THE PROVISIONS OF § 740.17(A)

Austria.
Australia.
Belgium.
Cyprus.
Czech Republic.
Estonia.
Denmark.
Finland.
France.
Germany.
Greece.
Hungary.
Ireland.
Italy.
Japan.
Latvia.
Lithuania.
Luxembourg.
Malta.
Netherlands.
New Zealand.
Norway.
Poland.
Portugal.
Slovakia.
Slovenia.
Spain.
Sweden.
Switzerland.
United Kingdom.

[69 FR 71363, Dec. 9, 2004]

PART 742—CONTROL POLICY—CCL BASED CONTROLS

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SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, LIBYA, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

SUPPLEMENT NO. 3 TO PART 742—HIGH PERFORMANCE COMPUTERS; SAFEGUARD CONDITIONS AND RELATED INFORMATION

SUPPLEMENT NO. 4 TO PART 742—KEY ESCROW OR KEY RECOVERY PRODUCTS CRITERIA

SUPPLEMENT NO. 5 TO PART 742—CHECKLIST ON ENCRYPTION AND OTHER “INFORMATION SECURITY” FUNCTIONS

SUPPLEMENT NO. 6 TO PART 742— GUIDELINES FOR SUBMITTING REVIEW REQUESTS FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901-911, Pub. L. 106-387; Sec. 221, Pub. L. 107-56; Sec. 1503, Pub.L. 108-11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003-23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 6, 2004, 69 FR 48763 (August 10, 2004); Notice of November 4, 2004, 69 FR 64637 (November 8, 2004).

SOURCE: 61 FR 12786, Mar. 25, 1996, unless otherwise noted.

§ 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part

describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) *Reasons for control listed on the CCL not covered by this part.* This part describes the license requirements and the licensing policies for all the “Reasons for Control” that are listed on the Commerce Control List (CCL) except “Short Supply” and “U.N. Sanctions,” which do not appear on the Country Chart.

(1) *Short Supply.* ECCNs containing items subject to short supply controls (“SS”) refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (Natural gas liquids and other natural gas derivatives); 1C984 (certain manufactured gas and synthetic natural gas (except when commingled with natural gas and thus subject to export authorization from the Department of Energy)); and 1C988 (Western red cedar (*thuja plicata*) logs and timber, and rough, dressed and worked lumber containing wane).

(2) *U.N. Sanctions.* The United Nations imposes sanctions, short of complete embargoes, against certain countries which may result in controls that supplement those otherwise maintained under the EAR for that particular country. This part does not address license requirements and licensing policies for controls implementing U.N. sanctions. CCL entries containing items subject to U.N. sanctions will refer the exporter to part 746 of the EAR, Embargoes and Other Special Controls, for any supplemental controls that may apply to exports and re-exports involving these countries.

(c) *Exports and reexports involving Cuba and Iran.* This part does not cover license requirements and licensing policies that apply to exports and re-exports to embargoed destinations (Cuba and Iran). These comprehensive embargoes cover a broader range of items than those reflected in the CCL. If you are exporting or reexporting to any of these destinations, you should first re-

view part 746 of the EAR, Embargoes and Other Special Controls.

(d) *Anti-terrorism Controls on Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria.* Commerce maintains anti-terrorism controls on Cuba, Iran, Iraq, Libya, North Korea, Syria and Sudan under section 6(a) of the Export Administration Act. Items controlled under section 6(a) to Iran, Syria, Sudan, North Korea and Libya are described in §§ 742.8, 742.9, 742.10, 742.19, and 742.20, respectively, and in Supplement No. 2 to part 742. Items controlled under section 6(a) to Iraq are described in § 746.3(a)(3). Commerce also maintains controls under section 6(j) of the EAA to Cuba, Libya, Iran, North Korea, Sudan and Syria. Items controlled to these countries under EAA section 6(j) are also described in Supplement 2 to part 742. The Secretaries of Commerce and State are required to notify appropriate Committees of the Congress 30 days before issuing a license for an item controlled under section 6(j) to Cuba, Libya, North Korea, Iran, Sudan or Syria. As noted in paragraph (c) of this section, if you are exporting or re-exporting to Cuba, Iran, or Iraq you should review part 746 of the EAR, Embargoes and Other Special Controls.

(e) *End-user and end-use based controls.* This part does not cover prohibitions and licensing requirements for exports of items not included on the CCL that are subject to end-use and end-user controls: certain nuclear end-uses; certain missile end-uses; certain chemical and biological weapons end-uses; certain naval nuclear propulsion end-uses; certain activities of U.S. persons; and certain exports to and for the use of certain foreign vessels and aircraft. Licensing requirements and policies for these exports are contained in part 744 of the EAR.

(f) *Overlapping license policies.* Many items on the CCL are subject to more than one type of control (e.g., national security (NS), missile technology (MT), nuclear nonproliferation (NP), regional stability (RS)). In addition, applications for all items on the CCL, other than those controlled for short supply reasons, may be reviewed for missile technology (see § 742.5(b)(3) of this part), nuclear nonproliferation (see § 742.3(b)(2) of this part), or chemical

and biological weapons (see § 742.2(b)(3) of this part), if the end-use or end-user may be involved in certain proliferation activities. Finally, many multilaterally controlled items are reviewed for anti-terrorism reasons if they are destined for a terrorism-supporting country (see paragraph (d) of this section). Your application for a license will be reviewed under all applicable licensing policies. A license will be issued only if an application can be approved under all applicable licensing policies.

[61 FR 12786, Mar. 25, 1996, as amended at 62 FR 25458, May 9, 1997; 65 FR 38151, June 19, 2000; 69 FR 23629, Apr. 29, 2004; 69 FR 46075, July 30, 2004]

§ 742.2 Proliferation of chemical and biological weapons.

(a) *License requirements.* The following controls are maintained in support of the U.S. foreign policy of opposing the proliferation and illegal use of chemical and biological weapons. (See also § 742.18 of this part for license requirements pursuant to the Chemical Weapons Convention).

(1) If CB Column 1 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations, including Canada, for the following:

(i) Human pathogens, zoonoses, toxins, animal pathogens, genetically modified microorganisms and plant pathogens identified in ECCNs 1C351, 1C352, 1C353 and 1C354; and

(ii) Technology (ECCNs 1E001 and 1E351) for the production and/or disposal of microbiological commodities described in paragraph (a)(1)(i) of this section.

(2) If CB Column 2 of the Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required to all destinations except countries in Country Group A:3 (see Supplement No. 1 to part 740 of the EAR) (Australia Group members) for the following:

(i) Chemicals identified in ECCN 1C350 (precursor and intermediate chemicals used in the production of chemical warfare agents).

(A) This license requirement includes chemical mixtures identified in ECCN

1C350.b, .c, or .d, except as specified in License Requirements Note 2 to that ECCN.

(B) This licensing requirement does not include chemical compounds created with any chemicals identified in ECCN 1C350, unless those compounds are also identified in ECCN 1C350.

(C) This licensing requirement does not apply to any of the following medical, analytical, diagnostic, and food testing kits that consist of pre-packaged materials of defined composition that are specifically developed, packaged, and marketed for diagnostic, analytical, or public health purposes:

(1) Test kits containing no more than 300 grams of any chemical controlled by ECCN 1C350.b or .c (CB-controlled chemicals also identified as Schedule 2 or 3 chemicals under the CWC) that are destined for export or reexport to CWC States Parties (destinations listed in Supplement No. 2 to Part 745 of the EAR). Such test kits are controlled by ECCN 1C395 for CB and CW reasons, to States not Party to the CWC (destinations not listed in Supplement No. 2 to part 745 of the EAR), and for AT reasons.

(2) Test kits that contain no more than 300 grams of any chemical controlled by ECCN 1C350.d (CB-controlled chemicals not also identified as Schedule 1, 2, or 3 chemicals under the CWC). Such test kits are controlled by ECCN 1C995 for AT reasons.

(ii) Software (ECCN 1D390) for process control that is specifically configured to control or initiate production of the chemical precursors controlled by ECCN 1C350.

(iii) Technology (ECCNs 1E001 and 1E351) for the production and/or disposal of chemical precursors described in ECCN 1C350, and technology (ECCNs 1E001 and 1E350) involving the following for facilities designed or intended to produce chemicals described in 1C350:

(A) Overall plant design;

(B) Design, specification, or procurement of equipment;

(C) Supervision of construction, installation, or operation of complete plant or components thereof;

(D) Training of personnel; or

(E) Consultation on specific problems involving such facilities.